

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO**

WRIT PETITION No.16867 of 2016

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioners in this case is as
under:

“It is humbly prayed that this Hon'ble Court in the
interest of justice be pleased to issue a writ, order or direction
more particularly a writ in the nature of a writ of mandamus.

- a) Declaring the action for the respondent No.1 in taking physical possession on 24.05.2016 of all that part and parcel of residential plot admeasuring 600 square yards in survey No.263 situated at Anand Nagar Colony, Hyderabad together with house comprising of ground and cellar portion totally admeasuring 2400 square feet bearing Municipal No.6-3-597/11 (New No.903) as arbitrary, illegal and
- b) Declaring the order dt.28.03.2016 passed by the Hon'ble Chief Metropolitan Magistrate, City Criminal Courts, Cyberabad in CrI.M.P.No.398/2016 as arbitrary and illegal and quash or set aside the same and pass such other order or orders as the Hon'ble Court may deem it fit and proper in the facts and circumstances of the case.”

Heard Sri P.S.Rajasekhar, learned counsel for the petitioners,
and Sri B.Harinatha Rao, learned counsel for the 1st respondent Bank.

As the Chief Metropolitan Magistrate, Criminal Courts, Cyberabad, admittedly had no jurisdiction to pass an order under Section 14 of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') in relation to the property situated in R.S.No.263, at Anand Nagar Colony, Hyderabad, the order dated 28.03.2016 passed in CrI.M.P.No.398/2016 is without jurisdiction and is accordingly set aside.

This order shall however not preclude the respondent-Bank from proceeding afresh against the subject property in accordance with law if warranted. Any other issues raised by the petitioners in relation to the validity of the proceedings initiated under the SARFAESI Act, 2002, are left open and it shall be open to them to raise the same before the appropriate forum in accordance with law.

The Writ Petition is accordingly disposed of. Consequently, pending miscellaneous petitions, if any, shall also stand closed. No costs.

JUSTICE SANJAY KUMAR

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.16.06.2016

vvr.